

Moved by Dayley

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IN THE HOUSE OF REPRESENTATIVES
HOUSE AMENDMENT TO S.B. NO. 1073

AMENDMENT TO SECTION 1

On page 1 of the printed bill, delete lines 11 through 41; delete page 2 and on page 3, delete lines 1 through 8, and insert:

"22-2402. DEFINITIONS. As used in this chapter:

(1) "Agency" means:

(a) In the case of the federal government, any authority which exercises administrative control over defined areas of federal lands within the state of Idaho;

(b) In the case of the state of Idaho, any department, board, commission, or institution;

(c) In the case of local government, cities, counties and any legal subdivisions thereof, drainage districts, irrigation districts, canal companies, highway districts, or any special taxing district.

(2) "Applicable fund or account" means:

(a) In the case of the state of Idaho, the noxious weed account, which is hereby created and established in the dedicated fund and which shall be used exclusively for the purposes prescribed by this chapter;

(b) In each county, the noxious weed fund, which is hereby created and established and shall be maintained in each county and which shall be used exclusively for the purposes prescribed by this chapter.

(3) "Aquatic plant" means any plant growing in, or closely associated with, the aquatic environment and includes, but is not limited to, riparian plants.

(4) "Article" means a particular kind of object, and includes any type of conveyance, mode of transport or associated materials such as water.

(5) "Classical biological control" means the introduction of control agents into a region, that is not part of their natural range, to suppress permanently the populations of selected target weeds usually also introduced into that region. "Augmentative biological control" means the supplemental release of control agents into a region, that is part of their natural range, to suppress permanently the populations of selected target weeds.

(6) "Containment" means halting the spread of a weed infestation beyond specified boundaries.

(57) "Control" means any or all of the following: prevention, rehabilitation, eradication or modified treatments.

(68) "Control authority" means:

(a) On the state level, the director of the department of agriculture;

(b) On the county level, the board of county commissioners.

(79) "Cooperative weed management area (CWMA)" means a distinguishable hydrologic, vegetative or geographic zone based upon geography, weed infes-

tations, climate or human-use patterns. Cooperative weed management areas may be composed of a portion of a county, a county, portions of several counties, or portions of one (1) or more states.

(~~8~~10) "Department" means the Idaho state department of agriculture.

(~~9~~11) "Director" means the director of the department of agriculture or the director's designated agent.

(102) "Eradication" means the elimination of a noxious weed based on absence as determined by a visual inspection by the control authority during the current growing season.

(113) "Integrated weed management plan (IWMP)" means a plan developed to manage, control or eradicate a noxious weed(s) from a cooperative weed management area or other weed management area. Integrated weed management strategies may include, but are not limited to, prevention, cultural, mechanical, chemical and biological methods.

(124) "Land" means all soil or water or other growing medium.

(135) "Landowner" means:

(a) The person who holds legal title to the land, except that portion for which another person has the right to exclude others from possession of the parcel; or

(b) A person with an interest in a parcel of land such that the person has the right to exclude others from possession of the parcel.

(146) "Modified treatment" means treatment specified in an integrated weed management plan.

(157) "Noxious weed" means any plant having the potential to cause injury to public health, crops, livestock, land or other property; and which is designated as noxious by the director.

(168) "Person" means any individual, partnership, firm, agency, corporation, company, society or association.

(179) "Prevention" means:

(a) Any action that reduces the potential for the introduction or establishment of a plant species in areas not currently infested with that species; or

(b) Any action that deters the spread of noxious weeds.

(~~18~~20) "Quarantine" means the regulation of the production, movement, or existence of plants, plant products, animals, animal products, or any other article or material, or the normal activity of persons, to prevent or limit introduction or spread of noxious weeds.

(~~19~~21) "Rehabilitation" means the process of reconditioning formerly weed infested land to a productive or desirable condition.

(202) "Riparian" means the green, vegetated areas along the edge of water bodies like rivers, creeks, canals, lakes, springs, sloughs, pot-holes and wetlands. They are the transition zone between upland and aquatic ecosystems. Underlying saturated soil is a key feature in riparian areas.

(213) "State noxious weed advisory committee" means an advisory committee appointed by the director to advise and to assist in development, modification and direction of a statewide noxious weed management strategy.

(24) "Viable" means a plant or plant part capable of surviving or living successfully, especially under particular environmental conditions.

(225) "Waters" means all the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which

are wholly or partially within, which flow through, or which border upon the state.

(236) "Weed control advisory committee" means a committee established by weed control agencies or authorities, at the county level, or a steering committee of a cooperative weed management area, to develop and to recommend implementation of integrated weed management plans and strategies.

(27) "Hybrid" means the offspring of two (2) plants of different breeds, varieties, species or genera.

(28) "Releasing" means releasing, placing, planting, or causing to be released, a species in a water body, facility, water supply system, field, garden, planted area, ecosystem or otherwise into the environment within the state of Idaho.

(29) "Researcher" means someone who has the generally accepted education, experience and position within the biological control research community.

(30) "Research facility" means any laboratory, institution, college or university, at which scientific tests, experiments or peer-reviewed investigations involving the use of any living plants is carried out, conducted or attempted and that receives funds under a grant, award or contract from a department, agency, or instrumentality of the United States for the purpose of carrying out research, tests or experiments and that uses generally accepted protocols at an equivalent or higher level than a U.S. center for disease control and prevention biosafety level 1 facility."

AMENDMENT TO SECTION 2

On page 3, delete lines 11 through 49; delete page 4; and on page 5, delete lines 1 through 12, and insert:

"22-2404. STATE POWERS. (1) The director is authorized to:

(a) Investigate the subject of noxious weeds; and

(b) Require information, annual work plans and reports from each county and from each state agency as to the presence of noxious weeds and other information relative to noxious weeds and the control thereof; and

(c) To cooperate with agencies and persons in carrying out the director's duties under this chapter, and to conduct matters outside this state in the interest of state noxious weed control; and

(d) Advise and confer as to the extent of noxious weed infestations and the methods of control; and

(e) Assist counties in the training of county weed superintendents; and

(f) Call and attend meetings and conferences dealing with the subject of noxious weeds; and

(g) Disseminate information and conduct educational campaigns independently or in cooperation with others; and

(h) Appoint a state noxious weed advisory committee, as provided by section 22-103, Idaho Code, to aid in the development and implementation of a statewide noxious weed management strategy, aid in evaluation of cost share projects and research proposals, and advise the director on matters pertaining to the state noxious weed program; and

(i) Procure materials and equipment; and

1 (j) Inspect and certify Idaho crops and imports and exports to verify
2 freedom from noxious weeds, and authorize others to conduct such in-
3 spections and certification; and

4 (k) Enter on any public or private land at reasonable times for the pur-
5 pose of carrying out the provisions of this chapter; and

6 (l) Apply to any court of competent jurisdiction for a search warrant
7 authorizing access to any land where access was denied and sought for
8 the purposes set forth in this chapter. The court may, upon such appli-
9 cation, issue the search warrant for the purposes requested; and

10 (m) Perform such other acts as may be necessary or appropriate to the
11 administration of the provisions of this chapter; and

12 (n) Cooperate with the federal government or any established agency
13 thereof in any program of noxious weed control which shall be deemed
14 advisable for the welfare of the people of the state of Idaho, accept any
15 advisable program and make any necessary rules which are not in contra-
16 diction to the purposes of this chapter; and

17 (o) Accept any gift, grant, contract or other funds, or grants-in-aid
18 from the federal government or other entities for noxious weed control
19 purposes and account for such moneys as prescribed by the state con-
20 troller, and all such funds are hereby appropriated to the purpose for
21 which they are received; and

22 (p) Initiate agreements with federal agencies in accordance with ap-
23 plicable federal laws; and

24 (q) Control noxious weeds on federal land within the state, with or
25 without reimbursement, and with the consent of the federal agency in-
26 volved; and

27 (r) Take any appropriate action necessary to control or quarantine nox-
28 ious weed infestations whenever an actual or potential emergency situa-
29 tion exists concerning noxious weed infestations anywhere in the state;
30 and

31 (s) Initiate cooperative agreements with other agencies and states for
32 the establishment and support of cooperative weed management areas; and

33 (t) Aid other weed control agencies or authorities in developing and
34 implementing integrated weed management plans for control of noxious
35 weeds; and

36 (u) Temporarily designate a weed as noxious for up to fifteen (15)
37 months, after publication in a newspaper of general circulation serving
38 the area of infestation; and

39 (v) Authorize the issuance of deficiency warrants for the purposes of
40 defraying excess costs for the control of noxious weeds for emergency
41 situations, in the event the actual cost for the control of noxious
42 weeds in any one (1) year exceeds the appropriations made for that pur-
43 pose. When so authorized the state controller shall draw deficiency
44 warrants against the general account; and

45 (w) Allow the collection, removal and movement of noxious weeds by a re-
46 searcher from an infested area in Idaho to a facility within Idaho when
47 available within the state of Idaho for purposes of biological control
48 research, so long as the following conditions are satisfied and certi-
49 fied by the researcher and the director in legally binding and notarized
50 documents:

1 1. The director is notified in writing by the researcher the pre-
2 precise details of the proposed research project at least thirty (30)
3 days prior to any contemplated collection, removal or movement of
4 noxious weeds. The director and specialist staff shall conduct
5 a review of the proposed research project and complete a written
6 project approval plan that includes details of all appropriate
7 actions that will be taken to ensure implementation and protection
8 of the authority of the director as outlined in section 22-2403,
9 Idaho Code, the state powers as outlined in section 22-2404, Idaho
10 Code, the county duties as outlined in section 22-2405, Idaho
11 Code, the county powers as outlined in section 22-2406, Idaho
12 Code, the landowner duties as outlined in section 22-2407, Idaho
13 Code, and the landowner and citizen powers as outlined in section
14 22-2408, Idaho Code. The researcher shall take no action prior
15 to written approval from all control authorities. The written
16 approval process shall also contain a notification to all other
17 appropriate entities as outlined in this chapter;

18 2. The collection, removal and movement activities are certified
19 in writing that they will be conducted using methods and protocols
20 prescribed and generally accepted in the biological control re-
21 search community that prevent the dissemination of noxious weeds;

22 3. The biological control agent that is the subject of the re-
23 search is not a plant pest within the meaning of the plant pest
24 act of 2002, an invasive species within the meaning of the invasive
25 species act of 2008 or a viable noxious weed within the meaning of
26 this chapter;

27 4. Viable noxious weeds, as determined by the department, are not
28 reintroduced into the environment as a component or result of the
29 biological control research;

30 5. Any articles, including but not limited to plant parts, that
31 are collected for transport as part of biological control research
32 must be destroyed or treated at the research facility in such a way
33 as to destroy the viability of any plant pests, invasive species,
34 hybrids and noxious weeds; and

35 6. The project is conducted in accordance with such other condi-
36 tions as may be set in the written approval document by the direc-
37 tor to ensure containment during collection, removal and movement
38 of the noxious weed.

39 Penalties for intentional transportation or release of a biological
40 control agent shall not exceed those established in the plant protec-
41 tion act (Title 7, USC 7734).

42 Should it be necessary to transport a biological control agent into or
43 out of the state of Idaho all appropriate biological control protocols
44 shall be followed as delineated by the appropriate federal agencies
45 such as the USDA animal plant health inspection service plant protec-
46 tion quarantine (USDA APHIS PPQ).

47 None of the actions authorized in this paragraph shall be carried out
48 until the director both outlines the actions and certifies to the board
49 of examiners that the specific funding and personnel necessary for all

actions is available within the current operational budget of the Idaho state department of agriculture.

(2) If at any time the director determines that the county commissioners have failed to cooperate or carry out their duties and responsibilities as a control authority, the director shall notify them of the deficiency, and suggest corrective action. If the situation is not satisfactorily corrected within seven (7) days after the time outlined in the director's corrective action plan, the director shall initiate appropriate action and charge to the county all expenses including the hiring of necessary labor and equipment. Quarantine of specific crops or potential noxious weed propagating activities may be a part of the control program."

CORRECTION TO TITLE

On page 1, delete lines 2 through 7, and insert:

"RELATING TO NOXIOUS WEEDS; AMENDING SECTION 22-2402, IDAHO CODE, TO DEFINE TERMS AND TO REVISE A DEFINITION; AND AMENDING SECTION 22-2404, IDAHO CODE, TO AUTHORIZE THE DIRECTOR OF THE IDAHO STATE DEPARTMENT OF AGRICULTURE TO ALLOW THE COLLECTION, REMOVAL AND MOVEMENT OF NOXIOUS WEEDS FROM AN INFESTED AREA TO A FACILITY WITHIN THE STATE FOR PURPOSES OF BIOLOGICAL CONTROL RESEARCH, TO PROVIDE CONDITIONS, TO PROVIDE A LIMITATION ON PENALTIES, TO PROVIDE FOR COMPLIANCE WITH SPECIFIED PROTOCOL AND TO PROVIDE CONDITIONS PRIOR TO IMPLEMENTATION OF SPECIFIED PROVISIONS."